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SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone off Alaska under the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). The Council prepared the FMP under the authority of the Magnuson-Stevens Act. Regulations governing U.S. fisheries and implementing this FMP appear at 50 CFR parts 600 and 679.

Background of Amendment 67

The Council recommended, and NMFS approved, the LLP to address concerns about excess fishing capacity in the groundfish and crab fisheries off Alaska. More information on the specifics of the LLP and the problems it was designed to resolve can be found in the final rule implementing the LLP (63 FR 52642, October 1, 1998). To address excess fishing capacity and to protect long-term participants with extensive catch histories in the BSAI Pacific cod hook-and-line or pot gear fisheries, the Council recommended Amendment 67 to the FMP. Amendment 67 authorized regulatory criteria for a Pacific cod endorsement to the LLP groundfish license. The endorsement is required for any vessel owner or operator to participate in the directed fishery for Pacific cod using hook-and-line or pot gear on a vessel greater than or equal to 60 feet (18.3 m) LOA in the BSAI. The details of Amendment 67 are provided in the proposed rule (66 FR 49908, October 1, 2001) and in the EA/RIR/IRFA for Amendment 67 (see **ADDRESSES**). This proposed action concerns the criteria applicable to harvests used by participants to establish their eligibility for an LLP groundfish license with a Pacific cod endorsement.

The final rule implementing Amendment 67 (67 FR 18129, April 15, 2002) specified eligibility criteria for a BSAI Pacific cod endorsement on an LLP groundfish license. In the final rule, § 679.4(k)(9)(iii)(F) specifies that harvests used to determine a person's eligibility to participate in the BSAI Pacific cod hook-and-line or pot gear fisheries must be made from the vessel that was used for the basis of eligibility for the person's LLP groundfish license.

In October 2002, the Council clarified the intended effect of Amendment 67 and recommended amending the

regulations that implement the eligibility criteria for a Pacific cod endorsement for the hook-and-line or pot gear fisheries. Specifically, the Council recommended that a person be able to use BSAI Pacific cod harvests to meet these eligibility criteria under certain circumstances, even if the harvests were not made from the vessel used as the basis for the license holder's LLP groundfish licenses, as is currently required.

Hence, this proposed action would amend the regulatory language at § 679.4(k)(9)(iii)(F) to specify that a person who owns the qualifying harvests of Pacific cod from a different vessel, but who also owned an LLP-qualifying groundfish fishing history at the time the qualifying Pacific cod threshold harvests were made, is also eligible for the Pacific cod endorsement on the person's LLP groundfish license. To prevent an increase in the number of LLP groundfish licenses, the regulations would also be amended to restrict the LLP qualifying history and the Pacific cod qualifying history of any one vessel to no more than one LLP groundfish license endorsed for Pacific cod hook-and-line or pot gear fisheries. This amendment would limit the number of vessels allowed to participate in the Pacific cod hook-and-line or pot gear fisheries as intended by the LLP.

Classification

NOAA Fisheries prepared an IRFA to evaluate the impact of this action on small entities, in accordance with the provisions of the Regulatory Flexibility Act of 1980, as modified by the Small Business Regulatory Fairness Act of 1996 (5 U.S.C. 603(b)). The purposes of this action were described earlier in the preamble to this proposed rule. The entities regulated by this action are those that did not qualify for a Pacific cod endorsement under the final rule published in April 2002 and that will qualify under the recommendations by the Council in October 2002. The six entities that may be affected by this proposed rule are: two hook-and-line catcher processors, one pot catcher-processor, and three pot catcher vessels. Because of the small numbers of vessels, confidentiality rules make it impossible to provide detailed information on these entities. All BSAI pot vessels are believed to be small entities, and 31 of 45 hook-and-line catcher processors are believed to be small entities. For the purposes of this analysis, these six entities have been treated as small entities. This action is not expected to have adverse impacts on these entities; each will be allowed to claim additional

annual harvests to qualify for the BSAI Pacific cod endorsement.

This regulation does not impose new recordkeeping or reporting requirements on the regulated small entities.

This analysis did not reveal any Federal rules that duplicate, overlap or conflict with the proposed action.

The status quo was evaluated as an alternative to the proposed action. This alternative would have had adverse impacts on the regulated small entities, in contrast to the preferred alternative, because it would have prevented them from claiming the additional harvests required to qualify for the Pacific cod endorsement. Failure to qualify for the endorsement would preclude the operations from participating in the fishery as initial issuees.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: April 21, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 679 is proposed to be amended to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Title II of Division C, Pub. L. 105-277; Sec. 3027, Pub. L. 106-31; 113 Stat. 57; 16 U.S.C. 1540(f); and Sec. 209, Pub. L. 106-554.

2. In § 679.4, paragraph (k)(9)(iii)(F) is revised to read as follows:

§ 679.4 Permits.

* * * * *

(k) * * *

(9) * * *

(iii) * * *

(F) Harvests within the BSAI will count toward eligibility amounts in the table at paragraph (k)(9)(ii) of this section if:

(1) Those harvests were made from the vessel that was used as the basis of eligibility for the license holder's LLP groundfish license, or

(2) Those harvests were made from a vessel that was not the vessel used as the basis of eligibility for the license holder's LLP groundfish license, provided that, at the time the endorsement-qualifying Pacific cod